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OFFICE OF PETITIONS

In re Patent No. 7,212,378	:	
Sato et al.	:	DECISION ON REQUEST
Issue Date: May 1, 2007	:	FOR
Application No. 10/716,743	:	RECONSIDERATION OF
Filed: November 17, 2003	:	PATENT TERM ADJUSTMENT
Title: THIN FILM MAGNETIC HEAD	:	
HAVING TOROIDAL COIL	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 2, 2007. Patentees request that the patent term adjustment indicated in the patent be corrected from five hundred four (504) days to six hundred sixty-nine (669) days.

The request for reconsideration of the patent term adjustment indicated in the patent is DISMISSED.

Patentees are given TWO (2) MONTHS from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On May 1, 2007, the above-identified application matured into U.S. Patent No. 7,212,378. The present request for reconsideration filed July 2, 2007 was timely filed within 2 months of the date the patent issued¹. See § 1.705(d). The Patent issued with a Patent Term Adjustment of 504 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 669 days on the basis that the patent issued 3 years and 165 days after the date on which the application was filed.

¹ It is noted that July 1, 2007 fell on a Sunday.

It is agreed that the present patent issued 3 years and 165 days after its filing date.

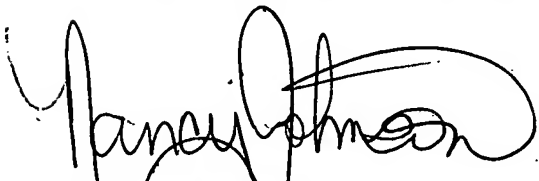
However, if an application is entitled to an adjustment under 35 U.S.C. § 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. § 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C.

§ 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. § 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. §§ 154(b)(1)(B), 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 504 days attributable to grounds specified in 37 C.F.R. § 1.702(a)(1) overlaps with the 165 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 504 days.

In view thereof, the patent properly issued with a patent term adjustment of 504 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e), which has been charged to Petitioner's Deposit Account, as authorized in the petition. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Paul Shanowski, Senior Attorney, at (571) 272-3225.



Nancy Johnson
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Office of Petitions